

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

DAVID ERWIN

PLAINTIFF

v.

No. 3:18-cv-73-DPM

CITY OF PARAGOULD, ARKANSAS;
JOHN DOES 1-3, Officers, Paragould Police
Department, in their Individual and Official
Capacities; and BILLY McGRAW,
Arkansas State Patrol Officer, in his
Individual and Official Capacity

DEFENDANTS

ORDER

1. Erwin sued Paragould and Greene County, among others, in a different case filed in March 2018. After granting his motion to proceed *in forma pauperis*, the Court dismissed his complaint without prejudice for failure to state a claim. No. 3:18-cv-37-DPM, No. 3. In response, Erwin filed a second complaint under the same case number with new facts and different defendants. In light of these differences, the Court directed the Clerk to file the second complaint as a new case. No. 3:18-cv-37-DPM, No. 8. It also instructed Erwin to complete a new *in forma pauperis* form by 1 May 2018. Both of those things have now happened; and the new case was reassigned, at random, to me.

2. Erwin's timely motion to proceed *in forma pauperis*, No 6, is granted. His disability benefits barely cover his expenses. He can't afford to pay the filing fee.

3. The Court must screen Erwin's complaint, No 1, before ordering service. 28 U.S.C. § 1915(e)(2). Erwin says that he was illegally pulled over while driving, and that his body and car were searched without probable cause. He claims that his belt and pants were removed without notice or permission. He also alleges that, after being held for an hour and a half, the officers retaliated against him for threatening to "see [them] in court" by towing his car, instead of letting him drive home.

The Court notes that Erwin was cited for driving left of center and for having an expired driver's license. No 1 at 13. It's not clear that a win in this case would necessarily invalidate those citations. So there's probably no *Heck v. Humphrey*, 512 U.S. 477 (1994) bar. And, taking his allegations as true, Erwin has pleaded a plausible claim for unreasonable search and seizure.

4. Erwin seeks to sue Paragould, three unnamed Paragould police officers, and State Trooper Billy McGraw. Erwin must provide addresses for the city and Trooper McGraw so the Court can order service. Addresses due by 25 May 2018. Erwin doesn't know the names of the city officers. They'll be John Does 1-3 for now. Erwin must provide their names, and their addresses for service, as soon as he can.

So Ordered.

W.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

3 May 2018